

2306 MAGOFFIN



BUILDING AND STANDARDS BOARD AGENDA ITEM # 5 FOR
WEDNESDAY, JUNE 27, 2010

CODE COMPLIANCE DIVISION

MEMORANDUM

June 18, 2012

TO: The Honorable Chairman and Board Members

THROUGH: Kurt Fenstermacher, Deputy Director, Environmental Services Department

FROM: Bill Stern., C.B.O., Deputy Building Official

SUBJECT: 2306 Magoffin Avenue, El Paso, Texas, 79901-2131

The following is a brief chronology of the investigation of the referenced location:

- 1) First investigated on June 16, 2010. The single family dwelling was built in 1912. At the time of investigation the structures were occupied and in a state of disrepair. The roof ceiling assembly and roof coverings are showing signs of deterioration due to lack of maintenance. The exterior and interior walls contain several holes and cracks and are unfinished in some areas; compromising the structural integrity and posing a safety hazard. There are many exposed electrical wires and loose junction boxes. The plumbing and mechanical systems are inadequate. There is ongoing construction without the required permits. The wooden floor system is bare, deteriorated and decaying; in the unpermitted addition the floor consists of dirt. The detached accessory structure is full of combustible materials and extremely dry rotted lumber.
- 2) A certified condemnation letter was mailed to John Armendariz.
- 3) Certified notices of the public hearing scheduled for June 27, 2012, were mailed to the owners and all interested parties on June 12, 2012.
- 4) As of June 18, 2012, \$2,197.91 in taxes is owed.

The owners have been notified of the property maintenance violations at this property. To date there has been no response or corrective action taken, and therefore the Division recommends that it be found:

- 1) That the structures are substandard, and unfit for habitation or use and a hazard to the public health, safety, and welfare; and
- 2) That the structures are not in substantial compliance with the municipal ordinances regulating fire protection, structural integrity, and disposal of refuse; and
- 3) That the structures certificate of occupancy be revoked; and
- 4) That the structures cannot be rehabilitated; and
- 5) That the structures be demolished within thirty (30) days; and
- 6) That the premises be cleaned and maintained clean of all weeds, trash, and debris within thirty (30) days; and
- 7) That upon failure by the owner or any other interested party to comply with the order of the Building and Standards Commission the City may take whatever action is necessary to bring the property into compliance, and place a lien on the property for the work which will be done by the City.

Code Compliance Division
March 5, 2012

NOTICE OF VIOLATION

John Armendariz
3233 N. Mesa St. Ste 208
El Paso, Texas 79902

Re: 2306 Magoffin Ave.
Blk: 25 Bassett
Lot: 13 & E 7 Ft of 14
Zoned: C-4
ENHS12-00162
7108 2133 3932 6880 8413

To All Owners, Lienholders, and Mortgagees:

An inspection at the above referenced address has revealed that the structure is in violation of the El Paso Municipal Code, Chapter 18.50, Property Maintenance Code, which states:

18.50.108.1 General.

When a structure or equipment is found by the Director to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure or equipment shall be condemned pursuant to the provisions of Chapter 2.38 of this code.

The El Paso Municipal Code Chapter 18.50 International Property Maintenance Code defines unsafe structure as follows:

18.50.108.1.1 Unsafe Structures.

An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

18.50.108.1.2 Unsafe Equipment

Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers, or other equipment on the premises or within the structure that is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

18.50.108.1.3 Structure Unfit for Human Occupancy.

A structure is unfit for human occupancy whenever the Director finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth or contamination, or lacks ventilation, illumination, sanitary or heating facilities or other

essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public

The structure located at **2306 Magoffin Ave., El Paso, Texas, 79901** is in violation of the requirements found in the following sections of the 2009 International Property Maintenance Code as adopted in the El Paso City Code, Chapter 18.50, Property Maintenance Code:

- a. The floors have not been maintained in a safe manner. [Sec. 304.1.1.9]
- b. The walls have not been maintained in a safe manner free of holes and cracks. [Sec. 304.6 & Sec.305.2]
- c. The roof structure has not been maintained free of defects that may cause leaks. [Sec. 304.7]
- d. The means of egress is/are inadequate and do not meet minimum code requirements. [Sec. 702.4]
- e. The plumbing system is inadequate and does not meet minimum code requirements. [Sec. 504.1]
- f. The electrical system is inadequate and does not meet minimum code requirements. [Sec. 604.3]
- g. The HVAC system is inadequate and does not meet minimum code requirements. [Sec. 603.1]
- h. The structure is open and accessible to unauthorized entry. [Sec. 301.3]
- i. The premises are full of weeds, trash, and debris [Sec. 302.1 & Sec. 302.4].
- j. The structure needs to be secured from unwanted entry and ongoing vandalism, and the premises need to be cleaned of all trash and debris within (30) days from receipt of this letter. [Sec. 108.2]
- k. The repairs to the structural elements and/or service systems referred to in the previous sections must be completed within 30 days of your receipt of this letter. If, due to the scope and complexity of the work more time is needed, you must make this request to the Environmental Services Department, Code Compliance Division.

As a result of the aforementioned violations, the following action may be taken:

- a. This case is being submitted to the City Prosecutor's Office for court proceedings. The court will decide if the structure is unsafe and if it should be vacated and secured, or demolished as per Chapter 2.38 of the El Paso Municipal Code.
- b. By authority of Chapter 18.02.103.10.3.3 of the El Paso Municipal Code the electrical service at this property may be disconnected at the request of the Environmental Services Department, Code Compliance Division because of Electrical Code violations.

Many of these corrections will require a permit. Permits for commercial or rental property must be taken out by a bonded and insured contractor who is registered with the City of El Paso.

According to the real property records of El Paso County, you own the real property described in this notice. If you no longer own the property, you must execute an affidavit stating that you no longer own the property and stating the name and last known address of the person who acquired the property from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to the Code Compliance Division office, 7969 San Paulo Dr., El Paso, Texas, 79907, no later than the 20th day after the date you receive this notice. If you do not send the affidavit, it will be presumed that you own the property described in this notice, even if you do not.

Should you have any questions regarding this matter, please contact me at 599-6290.

Nellie Avalos
Building Inspector

NOTICE OF PUBLIC HEARING

To all interested parties:

The owners, mortgagee, lien holders and any others with a legal interest in the property described below are hereby ordered to appear before the Building and Standards Commission, herein after referred to as the "Commission", at the following time and place:

LOCATION: El Paso City Hall, 2 Civic Center Plaza, Council Chamber, 2nd Floor El Paso, Texas 79901

DATE: June 27, 2012

TIME: 5:30 p.m.

PROPERTY: 2306 Magoffin Ave., Lot 13, Block 25 & the East 7 feet of Lot 14, Bassett's Addition

The Property has been determined to be substandard based upon violations of the minimum standards of the 2009 Building Codes, adopted and incorporated in the El Paso City Code, Chapter 18.50 Property Maintenance Code, more specifically addressed below.

According to the real property records of El Paso County, and other relevant public records, John Armendariz, 3233 N. Mesa Street, Ste. 208, El Paso, Texas, 79902-2300 and Charles A. Haddad, Mortgagee Lienholder, 700 Montana Avenue, El Paso, Texas, 79902, are the owners, herein after referred to as the "Owners" of the Property. If you no longer own or have an interest in the Property, you must execute an affidavit stating that you no longer own or have an interest in the Property and stating the name and last known address of the person who acquired the property from you, if applicable. The affidavit must be delivered in person or by certified mail, return receipt requested, to Building Standards Enforcement Division, 7969 San Paulo Drive, El Paso, Texas 79907, no later than the 20th day after the date you receive this notice. If you do not execute and deliver the affidavit, it will be presumed that you own or have an interest in the Property, even if you do not.

On or about March 5, 2012 an inspection of the Property was conducted by the Environmental Services Division and the following violations were identified:

- a. The floors have not been maintained in a safe manner. (Code Sec. 304.1.1.9 of the 2009 International Property Maintenance Code (IPMC))
- b. The walls have not been maintained in a safe manner free of holes and cracks. (Sec. 304.6 & Sec.305.2 of the 2009 IPMC)
- c. The roof structure has not been maintained free of defects that may cause leaks. (Sec. 304.7 of the 2009 IPMC)
- d. The means of egress is/are inadequate and do not meet minimum code requirements. (Sec. 702.4 of the 2009 IPMC)

- e. The plumbing system is inadequate and does not meet minimum code requirements. (Sec. 504.1 of the 2009 IPMC)
- f. The electrical system is inadequate and does not meet minimum code requirements. (Sec. 604.3 of the 2009 IPMC)
- g. The HVAC system is inadequate and does not meet minimum code requirements. (Sec. 603.1 of the 2009 IPMC)
- h. The structure is open and accessible to unauthorized entry. (Sec. 301.3 of the 2009 IPMC)
- i. The premises are full of weeds, trash, and debris (Sec. 302.1 & Sec. 302.4 of the 2009 IPMC)
- j. The structure needs to be secured from unwanted entry and ongoing vandalism. (Sec. 108.2 of the 2009 IPMC)

The Owners are entitled to show cause that the Property is safe, does not constitute a Dangerous Structure and should not be declared a nuisance and ordered abated by presenting relevant evidence and testimony. If the Owners advocate for repair, then they bear the burden of proof to demonstrate the scope of any work that may be required to bring the property into compliance with Chapter 18.50 and the time it will take to reasonably perform the work. The allowable time periods for repair are governed by Texas Local Government Code, Sections 214.001(h), (i), (j) and (k). Any document relied upon to demonstrate that the Property is safe or that it can be repaired must be presented to the Commission at the hearing, including building plans, specifications, drawings, or reports from professionals and any other relevant documentation.

If the Owners fail to comply with the order of the Commission the City may pursue one or more of the following actions:

Perform any and all work necessary to bring the property into compliance with the Commission's order;

Assess civil penalties, provided for in the Commission's order, in an amount not to exceed \$1,000 per day or \$10 per day if the Property has a homestead exemption, that will accrue interest of 10% per year until paid in full;

Appoint a receiver as permitted by state law; and

Any other remedies permitted by state law.

Commission orders may be appealed to the State District Court within 30 days of the Final order.

The Commission's authority and procedures in regard to a Dangerous Structure Hearing may be found in Chapter 2.38 of the El Paso City Code and in their duly adopted bylaws. A copy of the ordinance adopting the most current version of Chapter 2.38 is enclosed.

The bylaws may be obtained at the Building Standards Enforcement Division, 7969 San Paulo Drive, El Paso, Texas 79907 or by calling (915) 599-6290.

This notice will be recorded in the real property records of El Paso County and will be binding on subsequent grantees, lien holders or other transferees of an interest in the Property.

The City Clerk is ordered to provide notice of this hearing to the record owners and all other interested parties, required by law, who are listed following this notice, and file this notice in the real property records of El Paso County.

FAILURE OF THE OWNER AND/OR LIENHOLDER OR MORTGAGEE TO TAKE THE ORDERED ACTION MAY RESULT IN THE CITY TAKING THE ORDERED ACTION AND FILING A LIEN AGAINST THE PROPERTY.

The City of El Paso appreciates your cooperation and prompt attention to remedying the nuisances on the Property. Please do not hesitate to contact me should you have any additional questions, comments or concerns relative to this notice.

APPROVED AS TO FORM
CONTENT

APPROVED AS TO

Lesley J. Nicholes
Assistant City Attorney

Bill Stern, C.B.O.
Deputy Building Official
Code Compliance Division

I, RICHARDA DUFFY MOMSEN, City Clerk of the City of El Paso, hereby certify that a true and correct copy of the foregoing Notice regarding the property located at 2306 Magoffin Avenue, El Paso, Texas was PUBLISHED in the official City newspaper on the ____ day of _____, 2012.

Richarda Duffy Momsen

I certify that a true and correct copy of the foregoing Notice regarding the property at 2306 Magoffin Avenue was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

John Armendariz
3233 N. Mesa Street, Ste. 208
El Paso, Texas 79902-2300

Date: _____
Time: _____
Inspector: _____

I certify that a true and correct copy of the foregoing Notice regarding the property at 2306 Magoffin Avenue was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Charles A. Haddad, Mortgagee/Lienholder
700 Montana Avenue
El Paso, Texas 79902

Date: _____
Time: _____
Inspector: _____

I certify that a true and correct copy of the foregoing Notice regarding the property at 2306 Magoffin Avenue was HAND-DELIVERED to:

City of El Paso
C/O City Clerk
#2 Civic Center Plaza
El Paso, TX 79901

Date: _____
Time: _____
Inspector: _____

I certify that a true and correct copy of the foregoing Notice regarding the property at 2306 Magoffin Avenue was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Governor of the Ysleta Del Sur Pueblo Indian Tribe
AKA Tigua Indian Community
119 S. Old Pueblo Road
El Paso, Texas 79907

Date: _____
Time: _____
Inspector: _____

I certify that a true and correct copy of the foregoing Notice regarding the property at 2306 Magoffin Avenue was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

El Paso Central Appraisal District
5801 Trowbridge Ave.
El Paso, Texas 79925

Date: _____
Time: _____
Inspector: _____

I certify that a true and correct copy of the foregoing Notice regarding the property at 2306 Magoffin Avenue was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

El Paso County Probate Court
500 E. San Antonio Avenue, Suite 703
El Paso, Texas 79901

Date: _____
Time: _____
Inspector: _____

I certify that a true and correct copy of the foregoing Notice regarding the property at 2306 Magoffin Avenue was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Delgado, Acosta, Spencer
Linebarger, Heard & Perez, LLP
Attn: Bonnie Cooper
221 N. Kansas Suite 1400
El Paso, TX 79901

Date: _____
Time: _____
Inspector: _____

I certify that a true and correct copy of the foregoing Notice was POSTED at 2306 Magoffin Avenue El Paso, Texas.

Date: _____
Time: _____
Inspector: _____



UNSAFE STRUCTURES REPORT

BUILDING PERMITS AND INSPECTIONS

DATE OF EXAMINATION: June 12, 2012

REP. DISTRICT: 8

ADDRESS: 2306 Magoffin Avenue

ZONED: C-4

LEGAL DESCRIPTION: Lot 13 and the East 7 feet of Lot 14, Block 25, BASSETT'S ADDITION, an addition to the City of El Paso, El Paso County, Texas.

OWNER: John Armendariz

ADDRESS: 3233 N. Mesa St. Ste.208
El Paso, Texas 79902

BUILDING USE: Single family dwelling

TYPE OF CONSTRUCTION: V, Wood frame, brick with plaster coating.

FOOTINGS: Concrete

CONDITION: Unable to determine condition of footing due to subterranean placement. A structural engineer should be hired to evaluate actual condition.

FOUNDATION WALL: N/A

CONDITION: N/A

FLOOR STRUCTURE: Exposed hardwood flooring and dirt.

CONDITION: Poor. There is an area where the floor system is dirt. The exposed wood floor system shows evident signs of dry rot and decay. A structural engineer or registered contractor must be hired to evaluate the flooring system.

EXTERIOR WALLS: Brick with plaster coating.

HEIGHT: 10' +/-

THICKNESS: 10" - 12"

CONDITION: Poor. There are several notable cracks and the underlying brick is exposed due to lack of maintenance and exposure to the elements. There are huge holes caused by ongoing plumbing work. A structural engineer should be hired to evaluate the structural elements of the building and submit a report on the corrections required to make the building safe.

INTERIOR WALLS & CEILINGS: Brick, wood framing, plaster coated lattice w/lathing.

CONDITION: Poor. The walls are deteriorated and contain many holes exposing the plaster lattice and bare lumber/wood studs where there is ongoing construction without permits. The ceiling contains holes or is missing, exposing the deteriorated lumber and the over spanned joists. A structural engineer should be hired to evaluate the structural elements of the building and submit a report of the required corrections to make the buildings safe.

ROOF STRUCTURE: Flat roof, wood framing with rolled composition covering.

CONDITION: Poor, disintegrating due to lack of maintenance. A registered roofing contractor or building contractor must be hired to evaluate the roofing system and submit a report of required corrections to bring the roof system into code compliance.

DOORS, WINDOWS, ETC.: Wood frame doors and windows.

CONDITION: Poor. Several windows and doors are broken and badly deteriorated. Will need to replace or repair doors and windows, so they are operational and meet egress requirements.

MEANS OF EGRESS: Does not meet code requirements.

CONDITION: Poor. Windows and doors must be replaced to make them operational.

PLUMBING: Inadequate. A licensed plumber should be hired to bring system up to code.

ELECTRICAL: Inadequate. A licensed electrician should be hired to bring system up to code.

MECHANICAL: Inadequate or none existent A licensed mechanical contractor should be hired to bring system up to code.

IF CONDEMNED, HOW MANY PERSONS WILL BE AFFECTED: Seven

WARNING POSTED: No

BARRICADED: No

POLICE AID REQD.: No

REMARKS: This single family dwelling was built in 1912 and was found in an advanced state of disrepair posing a health and safety hazard to its occupants and should be demolished within thirty (30) days. The property should be cleaned of all weeds, trash and debris within thirty (30) days.

Nellie Avalos
Building Inspector